

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

PAUL PARKER,

Plaintiff,

v.

Case No. 20-cv-97-pp

C.O. APEL, *et al.*,

Defendants.

---

**ORDER REQUIRING PLAINTIFF TO PAY INITIAL PARTIAL FILING FEE OR  
EXPLAIN WHY HE IS UNABLE TO DO SO**

---

The plaintiff is a Wisconsin state prisoner who is representing himself. He filed a complaint along with a motion to proceed without prepayment of the filing fee. Dkt. Nos. 1, 2. On January 22, 2020, the court ordered the plaintiff to pay, by February 12, 2020, an initial partial filing fee of \$86.17 or to advise the court in writing why he is unable to pay that amount. Dkt. No. 5. The court advised the plaintiff that after he paid this fee, it would determine whether he could proceed with his case without prepaying the full filing fee. *Id.* at 4. The court also advised the plaintiff that if he did not pay the initial partial filing fee by the due date, the court could dismiss his case. *Id.* at 2. To date, the plaintiff has not paid the initial partial filing fee.

Before dismissing this case for failure to pay the initial partial filing fee, the court must determine whether the plaintiff did not pay the fee because he is unable to do so. *See Thomas v. Butts*, 745 F.3d 309, 312-13 (7th Cir. 2014).

A court may not dismiss a prisoner's lawsuit if he lacks funds in his prison

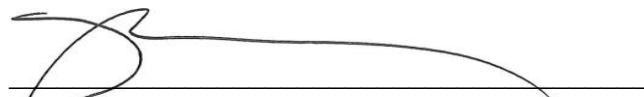
trust account to pay the initial partial filing fee. Id. at 312; see also 28 U.S.C. §1915(b)(4) (“In no event shall a prisoner be prohibited from bringing a civil action . . . for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee.”). “But if the court finds that the prisoner is unable to pay the initial partial filing fee at the time of collection because he intentionally depleted his account to avoid payment, the court in its sound discretion may dismiss the action.” Thomas, 745 F.3d at 312 (citations and internal quotation omitted).

The court will give the plaintiff additional time to pay the initial partial filing fee or explain to the court why he is unable to do so.

The court **ORDERS** that on or before **March 11, 2020** the plaintiff must either pay the initial partial filing fee of \$86.17 or file a written notice with the court explaining why he is unable to do so. If the court does not hear from the plaintiff by the deadline, it will dismiss his case without prejudice for his failure to pay the fee. If the plaintiff no longer wishes to prosecute this case, he does not have to take any further action. If the court dismisses his case without prejudice, he may refile his complaint at a later date, subject to the relevant statute of limitations.

Dated in Milwaukee, Wisconsin this 19th day of February, 2020.

**BY THE COURT:**

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

**HON. PAMELA PEPPER**  
**Chief United States District Judge**